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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,913	02/06/2004	Ye Huang	1237a	8473
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			EXAMINER	
			LAZARO, DAVID R	
			ART UNIT	PAPER NUMBER
			2455	
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			07/07/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/773,913

Applicant(s)

HUANG ET AL.

Examiner

DAVID LAZARO

Art Unit

2455

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 April 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date 11/21/08
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This office action is in response to the amendment filed 04/13/09.
2. Claims 9 and 17 were amended.
3. Claims 1-17 are pending in this office action.

Information Disclosure Statement

4. The information disclosure statement (IDS) submitted on 11/21/08 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Response to Amendment

5. The examiner withdraws the rejection of claims 1-17 under 35 USC 103(a) as being unpatentable over DuRee in view of Bormann as DuRee is owned by the assignee of record for the instant application (as noted in applicant's remarks page 6 filed 04/13/09).
6. Claim 17 remains rejected under 35 USC 101 for the new reasons presented below.

Claim Rejections - 35 USC § 101

7. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

8. Claim 17 is rejected under 35 U.S.C. 101 because the claimed invention does not fall within a statutory category.

9. Claim 17 states, "a computer readable medium having software stored thereon". Page 18, lines 18-27 of the specification discusses "transmission media". Therefore, it appears that the scope of the claimed computer readable medium may cover transmission media such as signals.

As discussed in the *Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility*, the office's position is that signals, such as carrier waves, do not fall within one of the four statutory classes of 35 U.S.C. 101. Therefore, based on the given evidence and the office's position, Claim 17 fails to fall within one of the four statutory categories and is ineligible for patent protection.

The examiner suggest amending the claim to read "a computer readable storage medium" which is supported on page 5, lines 26-30, of the specification.

Double Patenting

10. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

11. Claims 1-17 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-56 of U.S. Patent No. 6,160,871 in view of U.S. Patent 6,133,919 by Bormann et al..

12. Claims 1-56 of DuRee teach a graphical user interface; a computer system coupled to the graphical user interface and configured to receive a message from the graphical user interface, process the message to generate call signaling for a call, transfer the call signaling to a live media gateway controller and is coupled to a live media gateway, receive a control message indicating an identifier for the call from the live media gateway controller, process the control message to generate a response, and transfer the response to the graphical user interface wherein the response indicates one of the operations of the network.

DuRee does not explicitly disclose the graphical user interface (GUI) is configured to display a graphical representation of a model network and a graphical representation of operations of the model network wherein the network model comprises a plurality of model elements including a model media gateway controller which corresponds to the live media gateway controller and is coupled to a model media gateway that corresponds to a live media gateway. Bormann teaches a GUI that is configured to display a graphical representation of a model network and a graphical

representation of operations of the model network (Col. 5 line 5 - Col. 6 line 15 and Fig. 2). The model network includes model elements corresponding to live network elements (Col. 5 lines 20-34). The elements can include devices such as gateways and gateway controllers (Col. 3 lines 50-65 and col. 4 lines 26-41). The GUI allows a user to control the live network elements through model network elements (Col. 6 lines 33-35).

It would have been obvious to one of ordinary skill in the art to use the GUI of Bormann as the GUI for interacting with the network in DuRee. Using the known technique of a GUI displaying a graphical representation of a model network including operations of the network and elements of the network to provide a GUI for interacting with a network as desired by DuRee would have been obvious to one of ordinary skill in the art.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID LAZARO whose telephone number is (571)272-3986. The examiner can normally be reached on 8:30-5:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on 571-272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/David Lazaro/
Primary Examiner, Art Unit 2455
July 2, 2009